

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. Applicant respectfully submits that these amendments add no new matter. Claims 37 and 39-105 are pending in the application. This application has been carefully reviewed in light of the Official Action mailed May 31, 2007. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 103

Claims 37, 39-43, 52-59, 69-76, 86-93 and 103-105 stand rejected as obvious over U.S. Publication No. 2002/0046262 ("**Heilig**") in view of U.S. Patent No. 6,654,814 ("**Britton**").

Claims 44-51, 60-68, 77-85 and 94-102 stand rejected as obvious over U.S. Publication No. 2002/0046262 ("**Heilig**") in view of U.S. Patent No. 6,654,814 ("**Britton**") and further in view of U.S. Patent No. 5,870,734 ("**Kao**").

The 35 U.S.C. § 103(a) rejections to claims 37 and 39-105 are respectfully traversed *in toto*, as the rejection suffers the same deficiency for each claim in making out its *prima facie* case for the 35 U.S.C. § 103(a) rejection.

Applicants respectfully traverse the rejection under 35 U.S.C. §103, because there is no motivation either expressly or impliedly by the reference to support a rejection on the stated grounds. The M.P.E.P. § 2144.03, states that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka* 490, F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970).

Independent Claims 37, 72 and 89 recite a device having instructions executable to provide a client-facing filesystem interface, provide a server-facing filesystem interface, receive a filesystem request from a requesting client according to the client-facing filesystem interface, pass the filesystem request to a server as a proxy request according to the server-facing filesystem interface, wherein passing the first filesystem request as a proxy request comprises applying a set of rules to the first filesystem request to determine if the first filesystem request should be modified and if it is determined that the first filesystem request should be modified, modifying the first filesystem request to generate the proxy request, receive a server response from the server according to the server-facing interface; and pass the server response to the requesting client as a proxy response.

Thus, certain embodiments may receive a filesystem request from a client (e.g. a client request) and pass the filesystem request to a server as a proxy request. As disclosed at paragraph [0122] of the Specification, the proxy request can be the same as the original filesystem request or may be arbitrarily modified from the original filesystem request. In one embodiment, the original filesystem may be evaluated to determine if it should be modified and if so, the original filesystem request modified to create the proxy request.

Moreover, an embodiment may receive a filesystem request indicating a requested filesystem operation and compares the filesystem request to a programmable rulesbase to determine whether the filesystem request matches a pattern and if the filesystem request matches a pattern, it executes an action associated with the pattern. (See Paragraph [0023]).

In contrast, Heilig is directed to apparatus and methods of accessing and visualizing data stored at a remote host, wherein a proxy server receives a request for data from a client, and in response, makes a determination whether the data specified in the request should be rendered. Instead of directly transmitting the request data to the client, only a rendering result is transmitted to the network client. (See Abstract; and Paragraph [0052].)

Thus, in the invention of Heilig, a proxy server receives a request for data from a client (a client data request). The proxy server transmits the client data request on behalf of the client to an appropriate location, for example a data server. The requested data (e.g. a response to the client data request) is then transmitted to the proxy server. The proxy server may then make a determination whether any of this requested data should be rendered. In the case where the proxy server determines that rendering is not necessary the requested data may be transmitted directly to the client who requested the data. If the proxy server determines that rendering is necessary, the requested data (e.g. the data received in response to the client data request) is rendered appropriately and the rendered data transmitted to the client. Rendering, for example, may be necessary where the client does not have the necessary software tools to visualize the requested data. (See, Heilig Paragraphs 61, 66, 67, 68 FIGS 3A, 3B and 7).

Thus, it appears that the client data request of Heilig is passed directly to the data server unaltered and it is the data received in response to the client data request that is rendered.

Applicant respectfully submits that the Examiner is misinterpreting the disclosures of the Helig reference, as evidenced by the rejection presented with respect to Claim 37. The Examiner's *prima facie* case, spanning pages 2-3 of the Official Action, states in part that limitation E) "the client computer readable medium accessible by the client processor to

generate a first filesystem request" is taught at Paragraph [0103] of Heilig without further elaboration.

A review of paragraph [0103] finds no support for this assertion. Paragraph [0103] states that the client preferably sends requests to the proxy server. This may be accomplished by registering the proxy server at the client as a proxy, which in one embodiment comprise a data structure stored in a memory of client device memory. A true reading of this paragraph merely teaches or suggests, that a request for data to be rendered is being made by the proxy server at the client server and nothing more. It fails to address the filesystem limitation as it applies to the present invention.

With respect to the limitation F) "receive a first filesystem response" the Examiner cites to Paragraph [0016] of Heilig. A careful review of this paragraph by Applicants fails to find support for this assertion. Paragraph [0016] states that in case it is determined that the requested data needs to be rendered before transmission to the client, a storing module at the proxy server may be used to store the requested data in an intermediate memory store. Applicants assert that this passage is in keeping with the true teachings of Heilig of facilitating the rendering of data. This citation fails address the receiving of a first filesystem response as defined by the specification. The entire paragraph of Helig is silent on this issue.

These same type of assertions are made for limitations I), K), L) and P) and are made without explanation or clarification by the Examiner. Applicants respectfully asserts that the Examiner does not appreciate the invention as disclosed and fails to acknowledge the use of the filesystem and its modification by the rules of the present invention to achieve a desired non-obvious result.

Applicants assert that each and every limitation must be considered and whether or not the claimed invention as a whole would have been obvious based on the prior art. (See, USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983) and M.P.E.P § 2141.02).

The M.P.E.P. § 2144.03, states that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka* 490, F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). Each and every limitation must be considered and whether or not the claimed invention as a whole would have been obvious based on the prior art. (See, USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983) and M.P.E.P § 2141.02).

With respect to the claim limitations traversed so far, Applicants assert that each and every limitation has not been considered and that each and every limitation must be considered whether or not the claimed invention as a whole would have been obvious based on the prior art. (See, USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983); and M.P.E.P § 2141.02). Applicants respectfully further assert that, "the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention." As indicated in MPEP § 2141, the Federal Circuit has clearly held that "the motivation to combine references cannot come from the invention itself." *Heidelberger Druckmaschinen AG v. Hantscho Commercial Products, Inc.*, 21 F.3d 1068, 30 USPQ2d 1377 (Fed. Cir. 1993). Thus, Applicant respectfully submits that the Heilig reference does not disclose the discussed limitations for which it is relied on by the Examiner.

Furthermore, the Examiner admits that Heilig does not explicitly teach (Page 4) "wherein passing the first filesystem request as a proxy request comprises applying a set of rules to the first filesystem request to determine if the first filesystem request should be modified; and if it is determined that the first filesystem request should be modified, modifying the first filesystem request to generate the proxy request" as claimed in independent Claims 37 and 89. In attempting to make out a *prima facie* obviousness rejection, the Examiner has cited Britton repeatedly, Page 4-2nd ¶, Page 6-2nd ¶, Page 7-2nd and 4th ¶, Page 11-3rd ¶, Page 13-3rd ¶, Page 16-2nd ¶ and Page 18-3rd ¶ in support of the 35 U.S. § 103(a) rejection in attempting to overcome the deficiencies of the Heilig reference.

The Examiner attempts to utilize Britton to overcome the deficiencies of Heilig and goes through great pains on pages 4-5 of the Official Action in attempting to combine the references and concludes that the information added or otherwise contained in the request may collectively be referred to as "session specific information." Session specific information is defined to be userid, available memory, display size etc. (see page 4-2nd paragraph of the Official Action). The Examiner then concludes that if this data is incorporated into the request block, this modifies the request block and thus renders the present invention obvious in view of the Heilig and Britton references.

The Examiner also does not take into account that the invention of Britton is only applicable to the first request of a session and not for modifying the underlying data (e.g. the request itself) as do embodiments of the present invention. Britton does not teach or suggest, inherently or explicitly, the application of the rules to all, or even more than one, of the requests by any user, regardless of whether it is the same session. Nor does Britton teach or suggest the modification of the underlying data. Britton is directed to methods and systems for tailoring

content. (See Abstract). Britton teaches the limiting (i.e. tailoring) of content based on the device being utilized, the load on the system and the privileges granted the user (See Col. 4, lines 30-34; Col. 7, lines 20-24, 35-37 and 48-66; Col. 8, lines 7-9) not the request itself.

The Examiner at pages 12-13 of the Official Action, attempts through hindsight to reconstruct the present invention. The Examiner asserts that Fig. 3, blocks 100, 102, 104, 106 and 108, teach or suggest the modification of the first filesystem request to generate the proxy request limitation of independent Claims 37, 72 and 89. The most that can be said of Britton is that it appends data to the filesystem request to be utilized in the same or subsequent user sessions. It does not modify the filesystem request such that it performs a different function or achieves a different result as do embodiments of the present invention. Furthermore, Britton is only applicable to the first request of a session and does not analyze or modify multiple filesystem requests. The rules subroutine of the present invention modifies the filesystem request so that a different function or result may be achieved (See Fig. 5; Paragraphs [0071] – [0073]).

It is respectfully submitted that the Examiner does not have a complete understanding of the present invention. Applicants direct Examiner's attention to Paragraphs [0073] – [0078] of the specification. A careful review should reveal that the data contained in the underlying storage mediums is changed or modified based on the application of the rules. The application of the rules determines whether or not further rules should be applied to received filesystem requests, not just the first request of the session as in Britton. Additionally, in the present invention once a determination is made that the rules should be applied then the specific action that should be applied to the request and the underlying storage medium takes place.

Britton does not teach or suggest, either expressly or inherently, the limitation of independent Claims 37 and 89 that recites "wherein passing the first filesystem request as a proxy request comprises applying a set of rules to the first filesystem request to determine if the first filesystem request should be modified; and if it is determined that the first filesystem request should be modified, modifying the first filesystem request to generate the proxy request" as suggested by the Examiner.

Moreover, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 986, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006).

The teaching, suggestion, or motivation must be found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also *In re Lee*, 277 F.3d 1338, 1342-44, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002). Applicants assert that the case for a *prima facie* obviousness rejection has not been made, based upon the above stated rationale.

"There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998) (The combination of the references taught every element of the claimed invention, however without a motivation to combine, a rejection based on a *prima facie* case of obvious was held improper.). The level of skill in the art cannot be relied upon to provide the suggestion to combine references (*Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999)) as is attempted by the Examiner in the instant Official Action.

"In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification." *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972). Applicants assert obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 986, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In the instant Official Action, there is no suggestion as to the desirability of the Heilig/Brittton combination.

MPEP § 2143.01 states, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine reference teachings. Applicant fails to see were a *prima facie* case for obviousness has been made.

With respect to Claims 44-51, 60-68, 77-85 and 94-102, which stand rejected as obvious over U.S. Publication No. 2002/0046262 ("**Heilig**") in view of U.S. Patent No. 6,654,814

("Britton") and further in view of U.S. Patent No. 5,870,734 ("Kao"), Applicants respectfully traverse the rejection based upon the above state grounds.

The Kao reference taken alone or in combination with the Heilig and Britton references fails to teach or suggest all of the limitations of Claims 44-51, 60-68, 77-85 and 94-102.

Therefore Applicants request withdrawal of the rejection to Claims 44-51, 60-68, 77-85 and 94-102 at this time.

Based upon the above stated rationale, more specifically because the neither the combination of Helig and Britton nor the combination of Helig, Britton and Kao discloses all the claim limitations and there is not motivation to combine these references, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejection of independent Claims 37, 72 and 89. Additionally, Applicant requests the withdrawal of the 35 U.S.C. § 103(a) rejection of Claims 39-88 and 90-105, at least based on their dependency from independent Claims 37, 72 and 89, respectively.

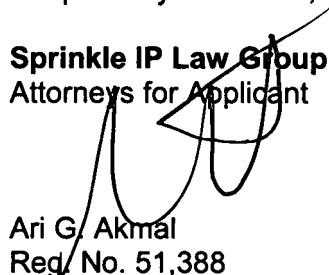
CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include an acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 37 and 39-105. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

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